

REMARKS

The Office Action mailed March 5, 2008 has been received and reviewed. All claims currently under consideration stand rejected. The application is to be amended as previously set forth. Support for the amendments to claims 12, 17, 21, and 22 may be found in the Specification at, for example, original claim 20. Moreover, "carbonic anhydrase B" was amended in claims 12 and 17 to recite "carbonic anhydrase CAII" which is the more current and widely used name for the enzyme. Support for the amendment to claim 20 may be found in the Specification at, for example, paragraph [0028]. All amendments and claim cancellations are made without prejudice or disclaimer. No new matter has been added. Reconsideration is respectfully requested.

A. Restriction Requirement

The Office indicates that newly submitted claims 21-24 are directed to inventions that are independent and distinct from the invention originally claimed because they are drawn to kits and reagent mixtures having different structural requirements. *Office Action* mailed March 5, 2008, No. 2. Applicants have amended claims 21 and 22 to recite, in part, "with a carbonic anhydrase of a red blood cell" and "wherein the first and second antibodies each comprise a different label for detecting reactivity of the first and second antibodies with cells by flow cytometry." Therefore, claims 21 and 22 are consistent with the invention as originally claimed. As such, applicants respectfully request withdrawal of the restriction requirement to claims 21 and 22 and examination of claims 21 and 22 on the merits.

B. 35 U.S.C. § 112, 2nd paragraph:

Claims 12 and 17 are rejected under 35 U.S.C. § 112, 2nd paragraph, as assertedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants respectfully traverse the rejection.

The Office alleges that it "appears that each of the antibodies should be distinguishably labeled for flow cytometric detection." *Office Action* mailed March 5, 2008, page No. 5. The

Office further states that each of claims 12 and 17 would be allowable if rewritten or amended to overcome this rejection.

As suggested by the Office, and in order to expedite prosecution, applicants have amended claims 12 and 17 to recite, in part, "wherein said first and second antibodies each comprise a different label for detecting reactivity of the first and second antibodies with cells by flow cytometry." Therefore, applicants respectfully request the withdrawal of the 35 U.S.C. § 112, 2nd paragraph rejection.

C. Objections

Claims 12 and 17 are objected to and the Office states that claims 12 and 17 would be allowable if rewritten or amended to overcome the rejections under 35 U.S.C. § 112, 2nd paragraph.

As suggested by the Office, and in order to expedite prosecution, applicants have amended claims 12 and 17 to recite, in part, "wherein said first and second antibodies each comprise a different label for detecting reactivity of the first and second antibodies with cells by flow cytometry." Therefore, applicants respectfully request the withdrawal of the objection to claims 12 and 17.

D. Rejoinder

Applicants request rejoinder of the withdrawn method claims upon allowance of the product claims, pursuant to M.P.E.P § 821.04(b).

In response to the request for rejoinder in applicants' response to the Office Action mailed August 27, 2007, the Office states that method claims 1, 11, and 20 are not in condition for allowance. The Office indicates that "claims 1, 11, and 20 have not been amended and fully examined on the merits for certain unresolved issues for consideration of scope of enablement under the provisions of 35 U.S.C. § 112, first paragraph, since the same reagent mixture appears to be able to distinguish 'subsets of red blood cells in a sample' in claims 1 and 11, and 'between maternal cells and fetal red blood cells in a blood sample' in claim 20." *Office Action* mailed March 5, 2008, No. 7.

In order to expedite prosecution, applicants have amended claim 20 to recite, in part, “[a] method for distinguishing between maternal and fetal red blood cells in a blood sample of a pregnant woman.” Applicants point out that claim 1 and amended claim 20 include different method steps because claim 20 recites “blood sample of a pregnant woman” while claim 1 recites “a blood sample.” Furthermore, as previously discussed, applicants have amended claims 12 and 17. Therefore, applicants respectfully renew their request for rejoinder of the withdrawn method claims 1, 11, and 20.

CONCLUSION

Claims 1, 11, 12, 17, and 20-22 are believed to be in condition for allowance, and an early notice thereof is respectfully solicited. Should the Office determine that additional issues remain which might be resolved by a telephone conference, the Office is respectfully invited to contact Applicant's undersigned attorney.

Respectfully submitted,



Steffen Soller
Registration No. 62,497
Attorney for Applicants
TRASKBRITT, P.C.
P.O. Box 2550
Salt Lake City, Utah 84110-2550
Telephone: 801-532-1922

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Enclosed: Petition for Extension of Time